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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
HEPTAGON CREATIONS, LTD.,	:
	:
Plaintiff,	:
v.	:
	:
CORE GROUP MARKETING LLC,	:
PLESKOW & RAEL CORPORATION,	:
and THOMAS RAEL,	:
	:
Defendants.	:
-----X	

Civil Action No. 11-cv-01794-LTS

COMPLAINT

Plaintiff, Heptagon Creations, Ltd, by and through its undersigned attorneys, alleges as its
Complaint:

NATURE OF THE ACTION

1. This is a civil action arising under the laws of the United States, specifically under
15 USC § 1125(a) (§ 43(a) of the Lanham Act) for unfair competition, trade dress infringement,
and common law unfair competition and 17 USC § 501 for copyright infringement.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 15 USC § 1121 (actions arising under the Lanham Act), 28 USC § 1331 (actions arising under the laws of the United States), 28 USC § 1338(a) (acts of Congress relating to copyrights and trademarks), and 28 USC § 1338(b) (civil actions asserting a claim of unfair competition).

3. This Court has personal jurisdiction over all named defendants. On information and belief, all named defendants have conducted acts of infringement and unfair competition in this District by directing sales which infringe upon Plaintiff's rights to this District and by conducting regular business in this District.

4. Venue is proper in this District pursuant to 28 USC 1391(b) and 28 USC 1400(b). Defendants reside in this district, are subject to personal jurisdiction in this district and the acts complained of herein took place within this District, moreover, Defendants have committed acts of infringement in this District and conduct regular business in this District.

THE PARTIES

5. Plaintiff Heptagon Creations, Ltd. (hereinafter "Heptagon") is a New York corporation with its principal place of business located at 20 Van Dam Street, Brooklyn, New York 11222, and is engaged in the business of designing and marketing high-end custom home furnishings and providing architectural services, namely, interior design services, which are typically provided to clients in the course of providing furniture to them.

6. Upon information and belief, Defendant Core Group Marketing LLC (hereinafter "Core") is a New York corporation with a place of business and corporate offices at 417 Fifth Avenue, 9th Floor, New York, New York 10016, and is engaged in the business of rendering

high-end real-estate brokerage, marketing and a variety of marketing related services in this District.

7. Upon information and belief, Defendant Pleskow & Rael Corporation (hereinafter "Pleskow") is a California corporation with a place of business and corporate offices at 17 Park Place, 2nd Floor, New York, New York 10007, and is engaged in the business of architectural and interior design services.

8. Upon information and belief, Defendant Thomas Rael (hereinafter "Rael") is a managing partner and principal of Pleskow, with offices at 17 Park Place, 2nd Floor, New York, New York 10007.

FACTS COMMON TO ALL CAUSES OF ACTION

9. Heptagon is in the business of designing and creating high-end, distinctly unique custom furniture which it has successfully marketed under the ANDRÉ JOYAU trade name since the year 2000 and has featured products in such notable tradeshow as BKLYN Designs, Designers & Agents, Gallery 13, and Architectural Digest Home Show.

10. Heptagon's ANDRÉ JOYAU brand furniture and the various items of furniture sold under the mark are famous worldwide for their distinct design features and overall quality of style, as furniture and as works of art. Customers and endorsers of ANDRÉ JOYAU furniture include such personalities as fashion designer Donna Karan, television personalities Thom Filicia and Alina Cho, film director Sydney Pollack, and sculptor Joel Perlman. Corporate clients who have contracted with Heptagon to decorate their offices include Playboy Magazine and ABKCO Music & Records, Inc. In 2007, Heptagon was commissioned to utilize the iconic ANDRÉ

JOYAU style to contribute to the design and decoration of the First Class Lounge for Korean Air at the Los Angeles International Airport (LAX). On November 20, 2003, Heptagon was invited by the Central Park Conservancy to design iconic ANDRÉ JOYAU benches for auction to help raise money for the restoration and management of the New York Central Park; the auction reception was held at Christie's and featured artistic furniture works by many other famous designers.

11. The ANDRÉ JOYAU furniture line has been featured in major general interest magazines such as the *Hamptons Magazine* Art Section (*see* Exhibit 1 p.1). *City Magazine* describes the furniture as an artistic work which fits "beautifully within [Donna Karan's] concept of Urban Zen," noting that the ANDRÉ JOYAU collection is showcased in the Donna Karan store (*see* Exhibit 1 p.2). The ANDRÉ JOYAU furniture line has also been featured in major publications including *Elle Decor*, *Interior Design*, *House & Garden*, *Metropolis*, *Midwest Home*, *New York Spaces*, and *World of Interiors* (*see* Exhibit 2).

12. In addition to general commercial and residential interior design, the iconic ANDRÉ JOYAU furniture style has been commissioned by owners of condominium buildings to design and decorate the spaces in such buildings, thereby lending the goodwill of the ANDRÉ JOYAU style to help increase the value and sales of such buildings' residential properties. For example, in May 2010 Heptagon was commissioned to decorate the Columbia Hicks Condominium development. Upon information and belief, Heptagon's stylistic contribution to the space helped the Columbia Hicks Condominium substantially increase the sale of its development properties.

13. In August 2010, acting as an agent for Core, Rael approached Heptagon in order to broker a deal on behalf of Core to convince Heptagon to lend to Core a collection of ANDRÉ JOYAU furniture in exchange for the publicity and exposure it would give the brand and the work. Core intended to use such furniture to decorate certain condominiums with iconic ANDRÉ JOYAU furniture, thereby associating the considerable goodwill of the furniture collection with the condominiums. The decorated condominiums would then be featured on the Home and Garden Television ("HGTV") show "Selling New York," which follows Core and other major real-estate brokerage firms as they employ various creative strategies to sell high-end real-estate in and around the New York City area.

14. Upon information and belief, in approaching Heptagon on Core's behalf, Rael was acting both as an agent for Core and in his capacity as a managing partner and principal of Pleskow which, upon information and belief, was hired by Core to provide interior decorating solutions to increase the appeal of Core's real-estate listings.

15. Heptagon was initially amenable to Core's offer to feature the ANDRÉ JOYAU furniture on a nationally syndicated television show and provided Rael with photographs of the ANDRÉ JOYAU furniture upon the false representation that such photographs would help Core select the furniture pieces that it intended to feature in the show.

16. As a condition to lending its furniture, Heptagon required Core to purchase an insurance policy for the furniture works involved. Core ultimately refused to purchase such policy and Heptagon, therefore, refused to lend its furniture to Core.

17. After refusing to participate in Core's project, Heptagon received over a dozen

telephone calls from Rael and from Michael Graves, an employee and real-estate agent at Core ("Graves"), who tried to convince Heptagon to deliver the ANDRÉ JOYAU furniture without the requisite insurance policy. Ultimately, Heptagon refused to participate in the project without the insurance policy.

18. On January 13, 2011, HGTV premiered an episode of "Selling New York" titled "Getting the Buy In! NYC Brokers must get creative to market their unique listings: A Private Island Home and Place With Potential" (the "HGTV Episode"). The HGTV Episode featured Core, among other real-estate companies, as it sought to sell a high-end condominium at 240 Park Avenue South, listed at a price of five million nine hundred and fifty thousand dollars (\$5,950,000.00) (the "Park Avenue Property"). The show disclosed a potential sales commission for Core of three hundred and fifty seven thousand dollars (\$357,000.00). The HGTV Episode was re-aired on January 30, 2011 at 2:30 PM EST, February 14, 2011 at 9:00 PM EST, and February 14, 2011 at 12:00 AM EST.

19. Throughout the HGTV Episode, Core agent Graves is guided and advised by Shaun Osher, the founder and CEO of Core ("Osher"), as he pursues various strategies to market the Park Avenue Property, make it more appealing for potential buyers, and to ultimately sell it on behalf of Core.

20. At one point in the HGTV Episode, Graves and Osher admit the fact that the unfurnished Park Avenue Property was not as appealing to potential buyers and they devise a plan to alter the value of the Park Avenue Property and make it more appealing, but without purchasing ANDRÉ JOYAU's furniture. This was done by creating virtual, fully furnished

images of the Park Avenue Property rooms and screening the images of ANDRÉ JOYAU's furniture onto the walls of the Park Avenue Property transforming the apartment into an ANDRÉ JOYAU work of art (the "Sales Presentation"). The Sales Presentation was made to a group of potential buyers and members of the media who viewed an enhanced version of the Park Avenue Property and were presented with an enhanced and prestigious representation of Defendants' businesses, as a result of the association with ANDRÉ JOYAU, ANDRÉ JOYAU's reputation and ANDRÉ JOYAU's artistic work.

21. While it was Core's original stated intention to physically furnish the Park Avenue Property with ANDRÉ JOYAU furniture for presentation to buyers, such idea was not possible when defendants refused to cover the insurance costs of the project. Apparently, in lieu of using Heptagon's physical furniture, or the furniture and the images, Core, Rael and Pleskow undertook to infringe on Heptagon's trade dress and goodwill in the ANDRÉ JOYAU furniture line by creating virtual images of the Park Avenue Property rooms to display as part of Core's Sales Presentation and furnishing such rooms entirely with 3D virtual constructs of ANDRÉ JOYAU artistic creations which were, upon information and belief, rendered by Rael and Pleskow from the photographs of the ANDRÉ JOYAU furniture which were provided to Rael in August 2010.

22. The HGTV Episode concludes with Core successfully selling the Park Avenue Property for a price of five million eight hundred and ninety thousand dollars (\$5,890,000.00) and, upon information and belief, earning Core a commission of three hundred fifty three thousand four hundred dollars (\$353,400.00).

COUNT ONE

UNFAIR COMPETITION AND TRADE DRESS INFRINGEMENT

23. As a cause of action and ground for relief, Heptagon alleges and incorporates by reference Paragraphs 1 through 22 of this Complaint as a part of this Count.

24. On the video recording of the HGTV Episode Core admits that "the [virtual Sales Presentation] allows [them] to show the potential of [the Park Avenue Property]" and that it allowed them to do so "without wasting any money along the way." The virtual Sales Presentation featured the following distinctive and well known artistic creations of ANDRÉ JOYAU furniture: Cocoon Chair, Cross Table, Form Table, Meshu Floor Lamp, Shimne Vase, Sylvan Floor Lamp, Yasu Floor Lamp, Z Stool, and Tate Chaise (*see* Exhibits 3, 4, 5 and 6).

25. Taken as a whole, the ANDRÉ JOYAU furniture collection features a "modern repurposed" style which is an artistic repurposing of objects found in nature into a fusion of modern minimalist and nature-themed home furnishings and has achieved an excellent reputation with the public for design excellence and quality and is known by the public to originate with plaintiff. Additionally, this distinctive style of line has acquired secondary meaning and is associated with the ANDRÉ JOYAU trade name, all of this is by virtue of considerable media attention (*see* Exhibits 1 and 2), as well as its celebrity clientele and endorsements.

26. The inherently distinctive Cocoon Chair is a low-sitting chair with a back and seat of soft, white material designed to emulate the color and texture of spider's silk. The chair's back and seat are surrounded from the bottom and sides by the hollowed-out cross-section of a tree trunk which forms a "cocoon" of granular wood around the seating area. The chair's textured

seating material and tree trunk cocoon siding represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 7). The presentation of the Park Avenue Property featuring the Cocoon Chair is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation (*see* Exhibit 3).

27. The inherently distinctive Cross Table is a low-sitting stool or table composed of splintered, unfinished wooded pieces which form a cross perpendicular to the ground and where the four quadrants of the cross are filled at the top with splintered, unfinished wooden blocks to form a flat area suitable for sitting or placing objects. The splintered, unfinished wood of the Cross Table represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 8). The presentation of the Park Avenue Property featuring the Cross Table is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof recreation substantially misappropriates the original artistic creation (*see* Exhibit 4).

28. The inherently distinctive Form Table is a low-sitting table featuring a top composed of two splintered, unfinished wooded pieces formed from cross-sections of a sycamore tree trunk. The round wooden pieces join together to form a "figure eight" table top. The round, tree-cross-section pieces have been cut so as to create an uneven impression at the sides where the sides of the table top never form an angle perpendicular to the floor. The splintered, unfinished wooden texture and uneven, "chaotic" feel of the table top siding represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed"

style (*see* Exhibit 9). The presentation of the Park Avenue Property featuring the Form Table is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation (*see* Exhibit 3).

29. The inherently distinctive Meshu Floor Lamp is a long, vertical lamp with the lamp shade bottom starting a few inches from the floor and rising to the top of the lamp several feet above. The lamp shade consists of smoke colored and translucent, ruffled mesh material which rises from a short wooden stand and creates the impression of smoke rising from a burning log. The smoke colored mesh material of the lamp shade, in combination with the log-like wooden stand, represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 10). The presentation of the Park Avenue Property featuring the Meshu Floor Lamp is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation (*see* Exhibit 3).

30. The inherently distinctive Shimne Vase is comprised of a rectangular wooden block which is formed to look like a vertically long cross-section of a thin tree and features tree bark coating on some sides and splintered wood on others. The vase's tree bark and splintered wood siding represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 11). The presentation of the Park Avenue Property featuring the Shimne Vase is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof

substantially misappropriates the original artistic creation (*see* Exhibit 3).

31. The inherently distinctive Sylvan Floor Lamp is comprised of a horizontal lying rectangular wooden stand, composed of unfinished splintered wood which is reminiscent of a whittled log, and which features five thin, glass lamps with bulbous tops jutting straight up from the wooden stand. The unfinished, log-like wooden stand and the extremely thin lamp necks, which serve to accentuate the wooden stand while mitigating the impact of the glass material, represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 12). The presentation of the Park Avenue Property featuring the Sylvan Floor Lamp is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation (*see* Exhibit 5).

32. The inherently distinctive Yasu Floor Lamp is a long, vertical lamp comprised of a splintered and unfinished block wooden stand and a long, rectangular lamp shade composed of thin, paper-like material. The splintered and unfinished block wooden stand and "thin crumpled paper" look of the lampshade represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 13). The presentation of the Park Avenue Property featuring the Yasu Floor Lamp is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation (*see* Exhibit 3).

33. The inherently distinctive Z-Stool is a stool composed of flat wooden panels which connect to form a horizontal top, diagonal leg, and horizontal base, respectively, and

create a letter Z figure when viewed from the side. The granulated wood material of the chair's respective pieces and the minimalist Z-letter shape represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 14). The presentation of the Park Avenue Property featuring the Z-stool is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation The (*see* Exhibit 6).

34. The inherently distinctive Tate Chaise is a long chaise composed of a single flat wooden panel which forms the seat, three flat wooden panels which form the backs and side arm respectively, and which sits on two unfinished and hollow wooden blocks which act as legs for the piece. The minimalistic wood panel style, comprised of back and arm pieces which are disconnected and arranged at a distance from one another, as well as the unfinished and hollow wooden "legs" represent non-functional artistic elements which are distinctive of the ANDRÉ JOYAU "modern repurposed" style (*see* Exhibit 15). The presentation of the Park Avenue Property featuring the Tate Chaise is likely to confuse the public into thinking there is an association with ANDRÉ JOYAU, because Defendants' infringing recreation thereof substantially misappropriates the original artistic creation (*see* Exhibit 6).

35. Core's virtual Sales Presentation, which was used to market its real-estate listing, represents a use in commerce of virtual furniture constructs which constitute or are confusingly similar to the ANDRÉ JOYAU collection, and which are, upon information and belief, recreated directly from the ANDRÉ JOYAU collection in its entirety. Core's infringing acts are intended to

divert business from Heptagon as they are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Core and its real-estate listings with Heptagon, or as to the origin, sponsorship, or approval of Core's goods, services, or commercial activities with Heptagon in violation of 15 USC § 1125(a) (§ 43(a) of the Lanham Act). Core's virtual Sales Presentation resulted in the unjust enrichment of Core on account of the affiliation they connected between Core and ANDRÉ JOYAU and its artistic creations and design services.

36. Pleskow and Rael's virtual recreation of the ANDRÉ JOYAU collection for Core's virtual Sales Presentation represents a use in commerce of virtual furniture constructs which are or are confusingly similar to the ANDRÉ JOYAU collection, and which are believed to be recreated directly from the ANDRÉ JOYAU collection in its entirety. Pleskow and Rael's infringing acts are intended to divert business from Heptagon as they are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Pleskow and Rael's interior design services with Heptagon, or as to the origin, sponsorship, or approval of Pleskow and Rael's goods, services, or commercial activities with Heptagon in violation of 15 USC § 1125(a) (§ 43(a) of the Lanham Act).

37. As a direct and proximate result of Core's unfair competition and misappropriation of Heptagon's distinctive trade dress, Core has been unjustly enriched and Heptagon has suffered and continues to suffer damages and losses to its profits, sales, and business. Indeed, Core's unjust enrichment is admitted by Core throughout the HGTV episode, which made the following statements:

a. "The design presentation allowed us to show the potential of this

apartment... without wasting any money along the way." (Admission by Graves.)

b. "[The Sales Presentation]...showed what this penthouse could be."

(Admission by Osher.)

Moreover, the misappropriation and unfair competition alleged herein above resulted in the subject sale and income to Core amounting, upon information and belief, to \$353,400. Core would not have earned this income but for the subject misappropriation and unfair competition complained of herein, as has been admitted by Mr. Graves:

c. "The design presentation allowed us to show the potential of this property, so my buyer, who was on the fence, sealed the deal." (Admitted by Graves.)

38. Upon information and belief, Core's complained of actions and the highly public HGTV airing of such actions also enables Core to obtain additional business and use the goodwill associated with the ANDRÉ JOYAU furniture collection to increase sales of its other real-estate listings, and Core is unjustly enriched by such sales of its other listings. The fact that Core expects to increase sales of its other real-estate listings by virtue of its unfair competition and infringement of Heptagon's rights is apparent from the fact that Core's website is replete with promotional references to the HGTV Episode.

39. As a direct and proximate result of Pleskow and Rael's unfair competition with Heptagon's distinctive trade dress and interior design services, Pleskow and Rael have been unjustly enriched and Heptagon has suffered and continues to suffer damages and losses to its profits, sales, and business. Upon information and belief, Pleskow and Rael's actions and the highly public HGTV airing of such actions have created an association between Pleskow and

Rael and ANDRÉ JOYAU and enables Pleskow and Rael to use the goodwill associated with the ANDRÉ JOYAU furniture collection to increase sales of their interior decorating, virtual design, and architectural design services, and Pleskow and Rael are unjustly enriched by such sales of their other goods and services.

40. There is no question that all named defendants had notice of Heptagon's inherently distinctive and famous trade dress because such named defendants had, prior to committing their infringing acts, approached Heptagon for the purposes of securing Heptagon's consent to lend its goodwill and intellectual property to the defendants' project.

COUNT TWO

COMMON LAW UNFAIR COMPETITION

41. As a cause of action and ground for relief, Heptagon alleges and incorporates by reference Paragraphs 1 through 40 of this Complaint as a part of this Count.

42. The infringing actions of all named defendants, which unfairly utilized Heptagon's hard work and attendant goodwill to unjustly enrich the defendants, constitutes common law unfair competition. Such unfair competition has caused damage to Heptagon's reputation, goodwill, and has unfairly begrudged Heptagon of the ability to exploit its products and services in the field of interior design and decorating for real-estate sales.

COUNT THREE

COPYRIGHT INFRINGEMENT

43. As a cause of action and ground for relief, Heptagon alleges and incorporates by reference Paragraphs 1 through 42 of this Complaint as a part of this Count.

44. The named defendants' virtual Sales Presentation comprises material which originated with or was, in violation of Heptagon's rights, copied from Heptagon. Such material is copyrightable subject matter under 17 U.S.C. §101 *et seq.* of the Copyright Act of 1976.

45. Heptagon is the owner of the exclusive rights to the copyrightable material and the privileges in and to the ANDRÉ JOYAU furniture collection.

46. Plaintiff has filed a copyright registration pertaining to the ANDRÉ JOYAU furniture collection. This registration is identified as follows: Case # 1-576740341 (Filed March 4, 2011).

47. Defendants' virtual Sales Presentation contains original creative copyrightable elements copied from or derived from Heptagon's copyrighted ANDRÉ JOYAU furniture collection.

48. Upon information and belief, the virtual 3D furniture constructs in the virtual Sales Presentation copy and are substantially similar in look and feel to Heptagon's original ANDRÉ JOYAU furniture collection by incorporating comprehensively copyright protectable elements of the ANDRÉ JOYAU furniture collection.

49. The named defendants had access to Heptagon's ANDRÉ JOYAU furniture collection by virtue of the fact that the ANDRÉ JOYAU furniture collection is well publicized in various media, the fact that the named defendants originally approached Heptagon to use its ANDRÉ JOYAU furniture collection for their HGTV project, and the fact that defendants were provided with photographs of the ANDRÉ JOYAU furniture collection prior to such time as defendants created their infringing virtual Sales Presentation.

50. The aforementioned activities of the defendants violate the rights of Heptagon under 17 U.S.C. § 101 *et seq.*

51. As a direct and proximate result of these acts of copyright infringement by the defendants, (1) the defendants have been and will continue to be unjustly enriched, both on account of sales of the Park Avenue Property and, (2) the diversion of customers to themselves for their other sales and decorating services. Heptagon has sustained and will continue to sustain irreparable damage and injury to its business in the sale of its interior design and decorating services, goodwill, reputation and profits, in an amount not presently known.

52. By reason of the acts of the defendants herein alleged, Heptagon has been damaged and, unless restrained, the defendants have and will continue to divert business from Heptagon, be unjustly enriched, deceive the public, impair the value of Heptagon's products and otherwise will cause Heptagon immediate and irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Heptagon prays:

1. For a preliminary and permanent injunction restraining all named defendants, their agents, servants, employees, successors, assigns and those in privity and/or concert with them from (1) using virtual images or any images of the ANDRÉ JOYAU furniture collection in connection with interior decorating, design, furniture sales and real-estate sales, and (2) otherwise infringing Heptagon's rights in the ANDRÉ JOYAU furniture collection in catalogs, on the Internet, on television or otherwise.

2. That Core pay to Heptagon, an amount to be determined at trial but no less than

the sum of its total commission on the sale of the Park Avenue Property, which represents Core's unjust enrichment for (1) unfair competition and (2) infringement of Heptagon's furniture trade dress.

3. That Pleskow and Rael pay to Heptagon, an amount to be determined at trial but no less than the sum of their total compensation for their work in connection with Core's virtual Sales Presentation, which represents Pleskow and Rael's unjust enrichment for (1) unfair competition and (2) infringement of Heptagon's furniture trade dress.

4. That all named defendants pay to Heptagon, an amount to be determined at trial, which represents defendants' unjust enrichment for sales of their goods and services resulting from the fame and goodwill gained by publically exploiting Heptagon's goodwill and reputation in the ANDRÉ JOYAU furniture trade dress.

5. That all named defendants pay to Heptagon, an amount to be determined at trial, representing punitive damages for defendants' gross and willful disregard of Heptagon's economic and intellectual property rights.

6. That all named defendants pay to Heptagon its reasonable attorneys' fees and the costs of this action.

7. That this Court order such other relief as it may deem just.

Dated: March 4, 2011

By:

A handwritten signature in black ink, appearing to be 'TB' followed by a stylized flourish.

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Anthony H. Handal, Esq. (AH5104)
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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff Heptagon Creations, Ltd. hereby demands a jury trial of any issues in this action so triable.

Dated: March 4, 2011

By:

A handwritten signature in black ink, appearing to read 'TB' followed by a stylized flourish.

Tim Bukher, Esq. (TB1984)
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EXHIBIT 1

Style and Substance

Those lazy, hozy days of August. Time to work out the kinks in that
 flower tan—or time to get a leg up on the true meaning of art?
 you're in town, check out an insider's source for furniture and textile
 t that will knock your socks off. —CHIP CORDELL

ARTY CRASHER FIRST-AID KIT

For the question "what is art?" esoteric chitchat about design can
 use a dinner party faster than a deflated soufflé. Enter author John
 Skett, whose new design primer *Toothpicks & Logos* (Oxford
 University Press; \$24) can turn that beat around with an entertaining
 sh course on the value of design in our everyday life. You'll be the
 le of the next ball if you grasp the tongue-twister: "design is to
 sign a design to produce a design," a jumble of definitions for the
 same word that, he says, perennially complicates
 our understanding of exactly what design is. He
 leaves nary a stone unturned as he dashes
 through our collective cupboards, citing
 household items with and without dignity, such as
 Philippe Starck's famous tripod juicer for Alessi
 ("pricy inefficiency") and the OXO Goodgrips "Y"
 peeler (two thumbs up). Among the fun facts you
 will learn is that the phonetic pronunciation of
 Coca-Cola is "bite the wax tadpole" in Chinese. Enough said.
 Available at BookHampton, 20 Main Street, East Hampton, 324-4939.

LOW-STOPPING CAKE TOPPERS

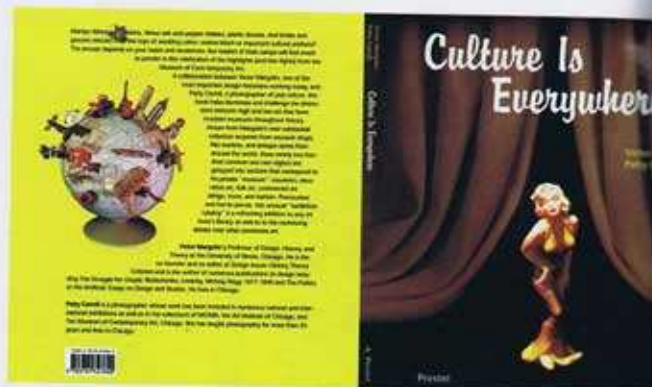
your fingers do the walking through the lavishly illustrated
Culture Is Everywhere (Prestel; \$25) and languish in author Victor
 Golin's frothy kitschfest pictorial of Marilyn Monroe statuettes,
 tic Jesuses, and wedding-cake toppers. They, along with titty egg
 s and Tyrolean thermometers, are highlights from the Museum of
 "ntemporary" Art in Chicago, and they, he opines, are not to be
 red as an art form. "We need to rescue these objects from their
 eption as cheap artifacts," he says, "and re-present them in a
 ext where their resonance can enhance our sense of what it
 ns to be human." This book may very well expand the heated
 ite over low and high art, and fan the flames among those who
 t have proper appreciation for quilted Elvis toaster-cozys and
 cess Diana snow domes. The accompanying photographs are by
 culture photographer Patty Carroll. Available at BookHampton, 20
 Street, East Hampton, 324-4939.

Recycle-chic at
 20 Van Dam.



ZEN AND NOW

Stephen Szepanek and Andre Joyau's neighbors in industrial
 Greenpoint, Brooklyn have stopped wondering about the black
 Lincoln Town Cars that deliver a steady flow of architects, textile
 collectors, and Manolo-clad interior designers to their block. The
 hot destination: 20 Van Dam, an insider's secret showroom/atelier
 where Joyau's line of furniture (we call it woodsy couture) blends
 with Szepanek's intricate patchwork textile artworks (we call it
 breathtaking). Both craftsmen, whose clients include Donna Karan,
 Takashimaya, and interior designer Daniel Romualdez, employ
 recycled and reclaimed materials in their work. "We believe in
 sustaining the lifetime of building materials," says Szepanek, who
 uses scraps of rare antique Japanese country textiles, most of which
 has been in constant use for hundreds of years, to create his quiet
 but complex quilts, rugs, and bed coverlets (\$850-\$2,500). "There is
 still so much life and character in these centuries-old fabrics, it's a
 shame not to make use of them." Joyau's rustic furniture uses
 reclaimed construction timber (the mosaic "End Grain Screen,"
 above, \$2,000 per panel, is made from 19th-century southern yellow
 pine). Both artists' works are available through Donna Karan,
 819 Madison Avenue, NYC, 212-861-1001, or by appointment at
 20 Van Dam, 20 Van Dam Street, Brooklyn, 718-599-2559.



DESIGN

A SHARED VISION

The artists of Sri and 20 Van Dam celebrate ordinary materials that can be transformed into **extraordinary objects**. Rural style with an urban edge, France meets Japan—all in Greenpoint, Brooklyn. By Mary Trasko

WALKING THROUGH THE BROOKLYN LOFT SHARED by artists Stephen Szczepanek and Andre Joyau, one sees textiles and furniture that look like the products of a seamless collaboration. In Joyau's wood shop, he transforms a rough-hewn log into a sleek, modern chair. Upstairs, Szczepanek hand-stitches a collage of Japanese country textiles. They work independently, yet their pieces share affinities of aesthetic and intention. "Their creations work beautifully within Donna's concept of Urban Zen—hand-made pieces by artisans that emphasize tranquility and an elegance that is organic," says Bibi Monnahan, creative director of the Donna Karan store on Madison Avenue, which showcases both of their work. "We want people to notice a wood grain, a texture," says Joyau.

Szczepanek named his company Sri after the Hindu goddess of abundance who symbolizes richness in all forms, while Joyau creates furniture and lighting designs under the label 20 Van Dam, the address of his building in Greenpoint. His refined yet profoundly simple forms strike a chord at a time when people seek to surround themselves with fewer, more meaningful objects. Szczepanek, an artist and former curator, discovered Japanese rural textiles a few years ago, and they sparked an entirely new direction in his art-making. For years he traveled through Asia, developing a passion for textile traditions, but when he first saw the heavily patched indigo fragments—each a hand-woven document of life in early-20th-century Japan—he had an epiphany. "What attracts me is the unselfconsciousness of these patchworks. They are devoid of ego, which contrasts with the fashion and contemporary art worlds," he says.

Some pieces are scraps, like a farmer's jacket that was

patched and re-patched. Szczepanek sews the textiles into artworks that can be hung or used as floor or bed coverings.

"It takes an artist of Stephen's sensitivity to recognize the beauty in these textiles," notes Jan Lee, owner of Sinotique, a New York gallery specializing in art and objects from Asia. "They represent a window into how a culture evolved."

"This piece has qualities of a Rothko, the stillness, the way it draws you in," muses Lou Marotta as he gazes at one of Sri's sparer indigo wall-hangings. Marotta has given over a substantial area within his eponymous NYC gallery to works by Szczepanek and Joyau. "And Andre's work is so natural. You can see it came from a tree. His pieces are reminiscent of Adirondack furniture or tramp art, yet totally modern."

Joyau recognizes the similarity of the two artists' work. "We both take something that would have gone to waste and give it a new life, new dignity," Joyau grew up in France, where his family constructed its own work implements. "I come from a farm where we had to make everything. I see beauty in materials that would otherwise go for firewood." A self-taught sculptor and woodworker, he first exhibited his sculpture in Paris, and all the elements of the furniture, including the forged metal hardware for cabinets and lighting, he handcrafts. Billie Tsien of Todd Williams Billie Tsien & Associates Architects has long been an admirer of his work. "He's the kind of person who takes any sort of craft and investigates it until he's mastered it."

"I think we're both interested in making something that has a simple, refined beauty," Szczepanek says. It has something to do with the pleasure of being surrounded by objects of fine proportion. We are taking material that is disregarded and transforming it into something beautiful. ■



From left: Artists Stephen Szczepanek and Andre Joyau stand before a stunning sampling of their handiwork.

PHOTOGRAPHY BY YOUNG-JAE SON

34 CITY

EXHIBIT 2



PREVIOUS PAGES: A CHAIR AND OTTOMAN MADE BY ANDRE SIT IN THE MAIN STUDIO AREA. THE WALLS WERE DEMOLISHED - THE BEAM IS PURELY FUNCTIONAL, ALTHOUGH IT FITS IN WITH ANDRE'S AESTHETIC. THIS PAGE, CLOCKWISE FROM TOP LEFT: A SCULPTURAL PIECE OF RAW WOOD STANDS BY AN INDUSTRIAL METAL DOOR; STEPHEN'S TEXTILE HANGINGS ARE MADE

FROM REWORKED BAST-FIBRE KIMONO FABRIC; THE PANELS ON THE KITCHEN CUPBOARDS ARE COPPER TREATED WITH ACID; ANDRE'S COFFEE TABLE WAS PUT TOGETHER FROM THE BEAMS OF DEMOLISHED-HOUSES. OPPOSITE: SLICED BEAM ENDS ARE PILED ON TOP OF ANDRE'S EXTENDING DESK - 'THE IDEA IS TO HAVE WOOD WITH A LOT OF DEFECTS,' HE SAYS



NEW YORK SPACES 49

material things

Old wood makes good

Reclaimed, it goes from cast-off to cutting-edge



2



3



3 From Brazilian designer Carlos Moser's Atelier collection, the Sabre easy chair, \$7,525, has a low stance. It's available in a variety of salvaged woods, with fabric or leather upholstery.

4 The Endgame screen by André Joyau, \$2,280, is constructed of reclaimed wood remnants and off-cuts in an ebonized cherry frame with leather hinges. Each panel is 6 feet tall and 27 inches wide.

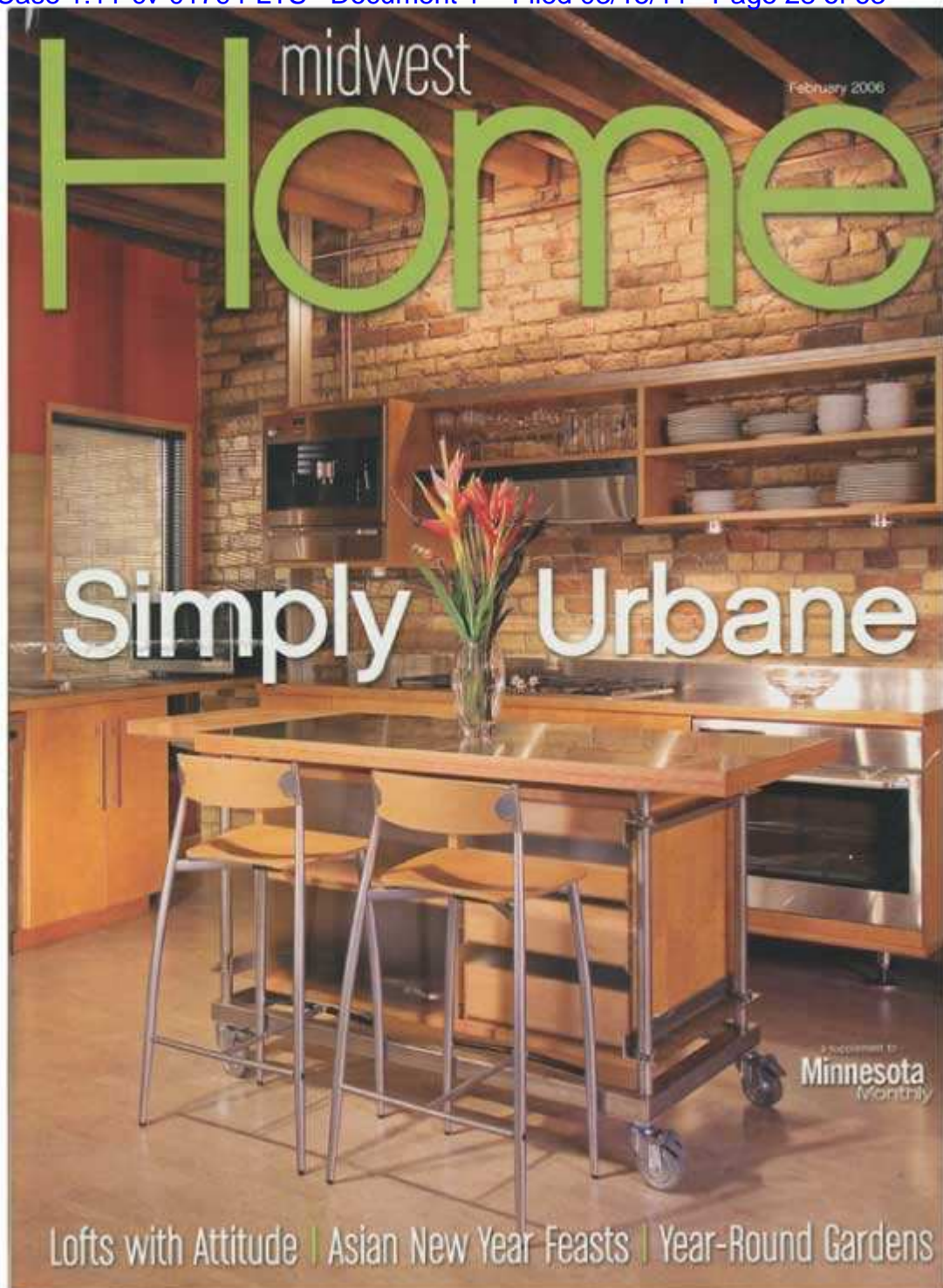


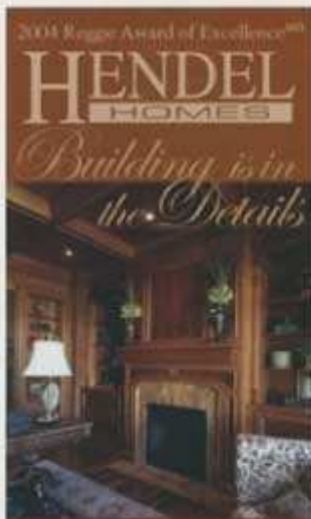
1 Hudson Furniture's B Base table features a solid claro walnut slab crafted from a fallen or damaged tree and placed atop curved oxidized iron supports. Sizing, stains and finishes are customizable. Pricing available upon request.

2 Metatone Studio's Zulu hanging light, \$400, is designed to project a symmetrical pattern onto walls. It's crafted from recycled crate wood and measures 24 inches tall by 14 inches wide.

5 Made by nature and finished by artisan Alon Langotsky, Chota's solid wood lounge, \$30,000, is 94 inches long. It's carved from the root of an ancient Japanese tree that otherwise would have been discarded. The one-of-a-kind piece has a natural shettac finish.

6 Crafted from an assortment of reclaimed woods, SMC Furnishings' "nd" stool, \$500, is available in combinations of walnut, wenge, heart pine, cherry, maple, white pine and bedauk. It stands 14 inches tall.





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New Store, Old Wood

Reclaimed wood from decrepit warehouses and factories stars in the stylish furnishings of André Joyau, coming soon to Minneapolis. In early March, Joyau, long a fixture in the New York design scene, will open his first outpost showroom in the Warehouse District. His extensive, modernist collection includes seating, beds, tables, credenzas, chandeliers, and children's furniture. Joyau is known for using burl—knotty or uniquely marked tree outgrowths—to make spare-looking pieces with old-school joinery methods. His eponymous, 1,000-square-foot Minneapolis showroom will be in the Tower Lofts building, 700 Washington Ave. N., Minneapolis; 612-236-9450, www.andrejoyau.com.

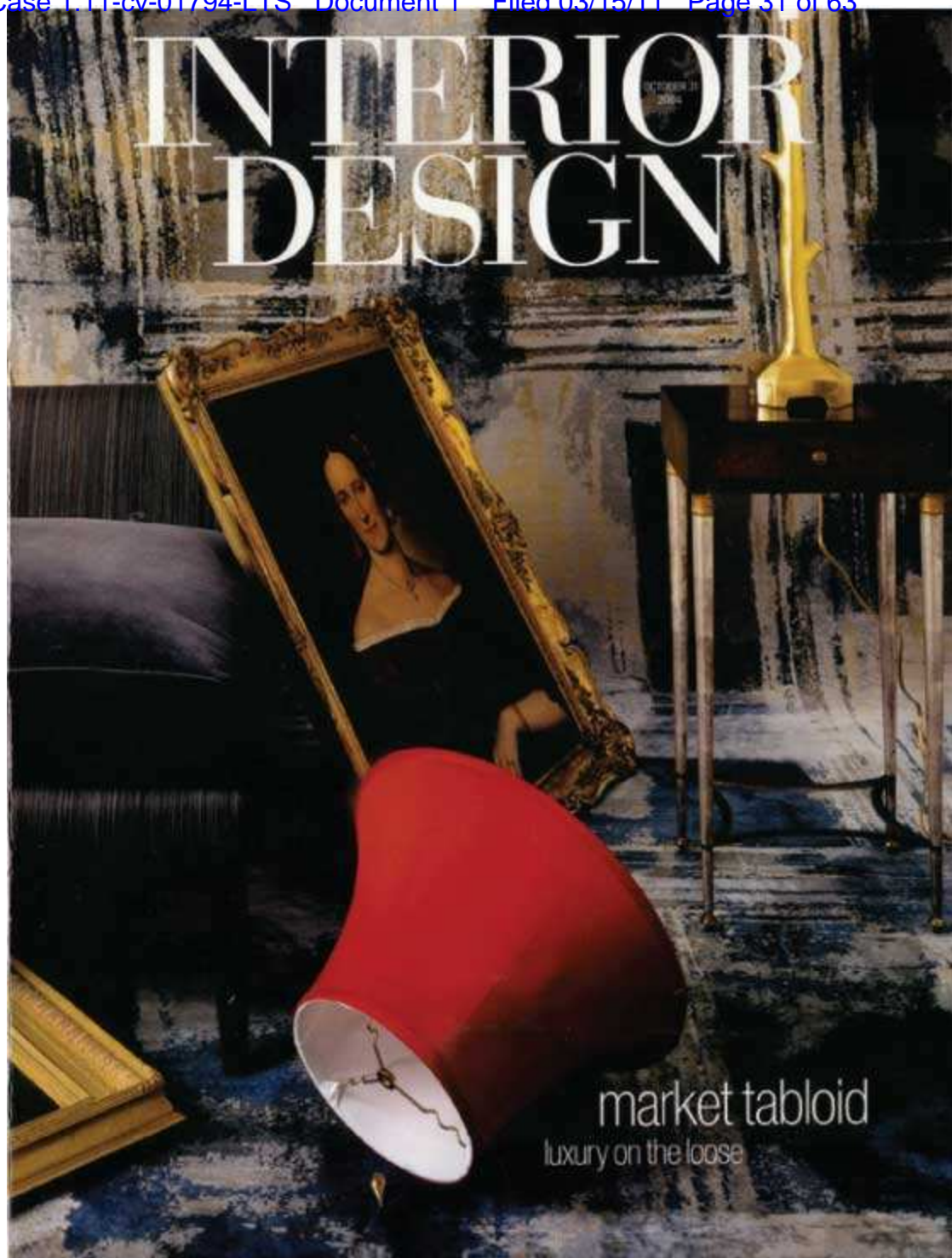
Winter Reads

Cold-weather gardens can be magical places, filled with texture, shape, and even flowers (see page 66 for proof). *Wonders of the Winter Landscape* by Vincent Simeone (Ball Publishing, 2005) will get you started on creating your own lively garden in the deadest of months. Simeone, a New York horticulturalist, includes tips on the best winter plants in six categories: bark, flowers, berries, deciduous trees, broadleaf evergreens, and conifers. • Chatty and opinionated, *Best Furniture Buying Tips Ever!* (House of Collectibles, 2005) will equip you with an arsenal of shopping information. Author Jennifer Litwin, a *Consumer Digest* furniture reporter, demystifies the confusing furnishings world, covering everything from quality construction methods to pushy salespeople. Did you know, for example, that good quality couches have cushions that bounce back after you sit on them? Or that you should set a furniture budget upfront—and agree on a flat commission rate—when you hire an interior designer? • With its text-heavy, academic tone, *Beyond the Bungalow* (Gibbs Smith, Publisher, 2005) is aimed at true fans of the Craftman style. Author Paul Duchacheier, a historic preservationist, argues that all the hoopla over the compact bungalow has given short shrift to larger Arts & Crafts homes of equal importance. Citing several local examples—including the Glensheen Mansion in Duluth and the Purcell-Cutts House in Minneapolis—and using some 150 full-color photographs, he traces the history of the Arts & Crafts movement while detailing its more grandiose representatives.



TOP TO BOTTOM: PHOTOS COURTESY OF HENDEL HOMES; JOYAU AND THE 'WONDER' PHOTO

[illegible]



furniture

André Joyau

Art stylishly imitates life in this designer's polished steel table with walnut legs. A rural Frenchman who moved to New York City, he blends French Country with the latest in Brooklyn urban-industrial chic. Handmade of walnut, the table's disorganized-yet-architectural legs are designed to exude an air of disorder. 20 Van Dam Street, Brooklyn, NY 11222; 718-963-3616, [circle 443](#)



Nucraft Furniture Company

For high-powered summits or informal meetings that need a bit of pizazz, the **Mural** wall system supports an array of plasma screens, projection systems, and computers. Elegantly concealed wires are easily accessed in reconfigurable channels and columns. Optional sconces, whiteboards, and shelving are available. Standard finishes offered include maple, cherry, walnut, or oak, in 17 stains; custom finishes may be ordered as well. 9151 West River Drive, Comstock Park, MI 49321; 677-492-7226, [nucraft.com](#); [circle 444](#)

Tuell+Reynolds

Elegant in proportion and attitude, the **Shinjuku** table's cast-bronze tiers create a big burst of energy for this small piece. Iron legs with a patina bronze top help achieve this fetching table's lean, and clean look. 52 Front Street, Healdsburg, CA 95448; 707-431-0521, [tuelreynolds.com](#); [circle 448](#)



Donghia

Sick of media saturation? **Escape** relieves the pressure. Large enough to house giant plasma monitors, these units also feature cabinets with glass-paneled sides, wire-management systems, and clear-glass-fronted drawers that allow remote-control signals through. This modern classic is available in two sizes and finishes, and is made of limed or pickled oak with brushed-nickel or brass hardware. 485 Broadway, New York, NY 10013; 800-366-4442; [donghia.com](#); [circle 445](#)



Baronet

Bresilia 80 case goods and furniture—as hot as South America in summer—are made from solid maple with birch veneer. The multiple-drawer dressers, audio bookcases, media stands, night tables, and platform bed in this collection feature mortise-and-tenon and dovetail joints, leveling feet, and cast-metal handles. Choose from chocolate finish on maple or anthracite finish. 224 Rue Baronet, C.P. 580, Sainte-Marie, Quebec, Canada G6E 3B8; 418-387-5431; [baronet.ca](#); [circle 447](#)



John Boone

The firebreathing **Stanley** pedestal dining table is a clean and expansive addition to the Lockwood/Boone collection. This attention-grabbing table features a box-matched veneer top and base, sunburst border, and veneer sabre legs, all in zebra-wood, as well as black lacquer detailing. Custom sizes and finishes are also available. 1059 Third Avenue, New York, NY 10021; 212-758-0512; [johnbooneinc.com](#); [circle 446](#)

HOUSE & GARDEN

DESIGN TO INSPIRE



1 Fur is a staple of the log cabin. Guilt-free faux throws, from top: Pottery Barn's Plush Fur throw in white, \$149; Pierre Frey's Loup et Vison in Chinchilla; Dior Collection Maison's Denim and Faux Fur blanket, \$1,090. 2 Christian Astuguevielle gives straightforward furniture a whimsical spin with a chestnut and rope Saulorne chair, through Holly Hunt, New York. 10 Trophies dinner plate by Pierre Frey. 11 André Joyau's wooden Forest table, \$360, Heptagon Creations, Brooklyn, NY. 12 Open up to the outdoors: Rocky Mountain Hardware's Entry Mortise lock set, \$764. 13 An early-1900s wool trade blanket, \$1,600, from Woodard & Greenstein, NYC. New, authentic Pendleton wool blankets may be purchased from Pendleton, \$75 to \$160. 14 Alpine spirit, a vintage French 1960s ski poster, \$600, from the Ross Group, Westport, CT. Or sample Christie's annual vintage ski art auction in London, set for February 2003. Sources, see back of book.

—PRODUCED BY THADDEUS KROMELIS

Alpine update: new





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Wood Works

— Interior Design, 10/31/2009 12:00:00 AM
Seating that goes with the grain

1. Cocoon reclaimed maple chair with wool-nylon in Dover by André Joyau, ☎ +1 318-963-2616, andregoyau.com, circle 319

2. Swallowtail chair with walnut frame and cherry seat in hand-rubbed oil finish by Brian Fireman Design.

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The Child's Bed

Bonnie Young has climbed the highest mountains of Tibet and scoured the seediest streets of Nepal in her quest for inspirational and highly unusual design. Along the way, she published a book of photographs (*Colors of the Vanishing Tribes*) and curated exhibitions on jewelry and clothing from around the world. As impressive as this may be, Young's daughter, Celia, wasn't buying. What the four-year-old absolutely had to have was a bed just like the princesses Disney-canopy and all. So began one of the most curious mother-daughter collaborations: In this very modern riff on a Chinese opium bed, mahogany gets replaced with white oak, snarling dragons give way to hand-carved flowers, and drawers, which would have been stuffed with hashish and hookahs, now hold tutus and teddy bears. What more could a little girl want? An organic custom mattress to match. All beds are handcrafted and made in the Brooklyn workshop of artisan André Joyau, \$12,000. Interested Centurion members should contact Bonnie Young at 347-306-3004.

Photograph by David A. Land

EXHIBIT 3



EXHIBIT 4



EXHIBIT 5



EXHIBIT 6



EXHIBIT 7



EXHIBIT 8



EXHIBIT 9



EXHIBIT 10



EXHIBIT 11



EXHIBIT 12



EXHIBIT 13



EXHIBIT 14



EXHIBIT 15

